



National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0076]

Notice of Intent to Prepare an Environmental Impact Statement for Model Years 2030 and Beyond New Medium- and Heavy-Duty Fuel Efficiency Improvement Program Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement; request for scoping comments.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), NHTSA intends to prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of new fuel efficiency (FE) standards for model years (MYs) 2030 and beyond medium- and heavy-duty on-highway vehicles and some work trucks (“HD vehicles” that NHTSA will be proposing pursuant to the Energy Independence and Security Act of 2007 (EISA). This notice initiates the process for determining the scope of considerations to be addressed in the EIS and for identifying any significant environmental issues related to the proposed action. NHTSA invites comments from Federal, State, and local agencies, Indian tribes, stakeholders, and the public in this scoping process to help identify and focus any matters of environmental significance and reasonable alternatives to be examined in the EIS.

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS (DEIS), which will be made available for public comment concurrently with the issuance of a Notice of Proposed Rulemaking (NPRM). To ensure that NHTSA has an opportunity to fully consider scoping comments, scoping comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. NHTSA will consider comments received after that date to the extent the rulemaking schedule allows.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the following website:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9826 before coming.
- *Fax:* (202) 493-2251.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.transportation.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments

containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Vinay Nagabhushana, Fuel Economy Division, telephone: (202) 366-1452, email: vinay.nagabhushana@dot.gov; or Hannah Fish, Vehicle Safety Standards & Harmonization, Office of the Chief Counsel, telephone: (202) 366-1099, email: hannah.fish@dot.gov; or Stephanie Walters, Legislation & General Law Division, Office of the Chief Counsel, telephone: (202) 819-3642, email: stephanie.walters@dot.gov, at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a forthcoming notice of proposed rulemaking (NPRM), the United States Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) intends to propose FE standards for MYs 2030 and beyond for medium- and heavy-duty on-highway vehicles and some work trucks (referred to herein as “HD vehicles”) vehicles pursuant to the Energy Independence and Security Act of 2007 (EISA).¹ In particular, NHTSA will propose the next phase (“Phase 3”) of the Medium and Heavy Vehicle Fuel Efficiency Standards program. In the Phase 2 rulemaking, NHTSA tailored the standards to the following regulatory categories of HD vehicles: vocational vehicles, combination tractors, gasoline and diesel HD vehicle engines, and heavy-duty pickup trucks and vans.^{2,3} NHTSA set separate categories of standards based on fuel type, duty cycle, vehicle application, and tractor cab type. As discussed further below, NHTSA is seeking comment on how to tailor Phase 3 standards to these regulatory categories of HD vehicles.

¹ Pub. L. No. 110-140, 121 Stat. 1492 (Dec. 19, 2007) (codified at 49 U.S.C. 32901 *et seq.*).

² In accordance with the notice 87 FR 50386, NHTSA is seeking comment on including heavy-duty pickup trucks and vans standards in a separate action.

³ Pursuant to *Truck Trailer Manufacturers Ass'n, Inc v. Env't Prot. Agency*, 17 F.4th 1198 (D.C. Cir. 2021), NHTSA is not proposing trailer standards in this rule.

The National Environmental Policy Act (NEPA) instructs Federal agencies to consider the potential environmental impacts of their proposed actions and possible alternatives. In connection with the action described above, NHTSA will prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of the proposed reasonable alternatives for HD vehicle FE standards pursuant to NEPA and implementing regulations issued by the Council on Environmental Quality (CEQ),⁴ DOT Order No. 5610.1C,⁵ and NHTSA regulations.⁶ To inform decision makers and the public, the EIS will analyze the potential environmental impacts of the agency's Preferred Alternative and a spectrum of reasonable alternatives, including a "no action" alternative.⁷ As required by NEPA, the EIS will consider direct, indirect, and cumulative effects of the proposed action and alternatives.⁸

I. Purpose and Need

The Energy Policy and Conservation Act of 1975 (EPCA)⁹ mandated that NHTSA establish and implement a regulatory program for motor vehicle fuel economy as part of a comprehensive approach to federal energy policy. As codified in chapter 329 of title 49 of the U.S. Code, and as amended by EISA, EPCA set forth extensive requirements concerning the establishment of fuel economy standards for passenger cars and light trucks. Pursuant to this statutory authority, NHTSA sets Corporate Average Fuel Economy (CAFE) standards for those vehicles.¹⁰

In December 2007, Congress enacted the EISA, which significantly amended EPCA's program requirements, granting the DOT, and NHTSA by delegation¹¹, additional rulemaking

⁴ 42 U.S.C. 4321–4347; 40 CFR parts 1500–1508.

⁵ *Procedures for Considering Environmental Impacts* (1979) (revised 1985), available at <https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c>.

⁶ 49 CFR part 520.

⁷ 40 CFR 1502.14.

⁸ *Id.* 1508.1(g)

⁹ Pub. L. No. 94-163, 89 Stat. 871 (Dec. 22, 1975).

¹⁰ See *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, Final Rule*, 75 FR 25324 (May 7, 2010); *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 FR 62624 (October 15, 2012).

¹¹ The Secretary has delegated responsibility for implementing fuel economy and fuel efficiency requirements under EPCA and EISA to NHTSA. 49 CFR 1.95(a) and (j).

authority and requirements. EISA provided NHTSA authority to implement, through rulemaking and regulations, “a commercial medium- and heavy-duty on-highway vehicle¹² and work truck¹³ fuel efficiency improvement program designed to achieve the maximum feasible improvement[.]”¹⁴ This provision also directs NHTSA to “adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks.”¹⁵ This authority permits NHTSA to set “separate standards for different classes of vehicles.”¹⁶

EISA also establishes requirements for lead time and regulatory stability for these vehicle types. New fuel efficiency improvement program standards that NHTSA adopts pursuant to EISA for these vehicle types must provide not less than 4 full model years of regulatory lead-time and 3 full model years of regulatory stability.¹⁷ Finally, EISA directs that NHTSA’s HD rulemaking must be conducted in consultation with the Environmental Protection Agency (EPA) and the Department of Energy.¹⁸

On May 21, 2010, the President issued a memorandum to the Secretary of Transportation, the Secretary of Energy, the Administrator of EPA, and the Administrator of NHTSA that called for coordinated regulation of the heavy-duty vehicle market segment under EISA and under the

¹² EISA added the following definition to the automobile fuel economy chapter of the United States Code: “‘commercial medium- and heavy-duty on-highway vehicle’ means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.” 49 U.S.C. 32901(a)(7).

¹³ EISA added the following definition to the automobile fuel economy chapter of the United States Code: “‘work truck’ means a vehicle that— (A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and (B) is not a medium-duty passenger vehicle (as defined in section 86.1803-01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of [EISA]).” 49 U.S.C. 32901(a)(19).

¹⁴ 49 U.S.C. 32902(k)(2).

¹⁵ *Id.*

¹⁶ *Id.* For background on the HD vehicle segment, issues related to regulating this segment, and fuel efficiency improvement technologies available for these vehicles, see the reports recently issued by the National Academy of Sciences. National Research Council, *Technologies and Approaches to Reducing the Fuel Consumption of Medium- and Heavy-Duty Vehicles*, Washington, D.C. (The National Academies Press, 2010), available at http://www.nap.edu/catalog.php?record_id=12845 (last accessed April 25, 2014); National Research Council, *Reducing the Fuel Consumption and Greenhouse Gas Emissions of Medium- and Heavy-Duty Vehicles, Phase Two: First Report*, Washington, D.C. (The National Academies Press, 2014), available at http://www.nap.edu/catalog.php?record_id=18736 (last accessed April 25, 2015).

¹⁷ 49 U.S.C. 32902(k)(3).

¹⁸ 49 U.S.C. 32902(k)(2). As discussed later in this document, both agencies have been invited to serve as cooperating agencies on this EIS.

Clean Air Act.¹⁹ NHTSA and EPA met that directive in August 2011 by finalizing first-of-a-kind standards for new HD engines and vehicles in MYs 2014 through 2018 (“Phase 1”).²⁰ The performance-based standards created a national program requiring manufacturers to meet targets for FE and GHG emissions. The agencies estimated that the Phase 1 standards would save vehicle owners and operators an estimated \$50 billion in fuel costs over the lifetime of those vehicles while also reducing oil consumption by a projected 530 billion barrels and GHG pollution by approximately 270 million metric tons.²¹

Building on the success of Phase 1 of the program, in a February 18, 2014, Presidential Announcement, President Obama directed NHTSA and EPA to finalize the next phase of HD vehicle FE and GHG standards by March 31, 2016.²² NHTSA and EPA met that directive in October 2016 by finalizing standards for new HD engines and vehicles in MYs 2018 and beyond (“Phase 2”). NHTSA conducted the Phase 2 rulemaking in consultation with EPA and DOE. The Phase 2 standards were expected to further reduce GHG emissions (GHG) and increase FE for on-road heavy-duty vehicles. NHTSA’s fuel consumption standards and EPA’s carbon dioxide (CO₂) emissions standards were tailored to three regulatory categories of heavy-duty

¹⁹ See The White House, Office of the Press Secretary, *Presidential Memorandum Regarding Fuel Efficiency Standards* (May 21, 2010), available at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-fuel-efficiency-standards> (last accessed April 25, 2014); see also The White House, Office of the Press Secretary, *President Obama Directs Administration to Create First-Ever National Efficiency and Emissions Standards for Medium- and Heavy-Duty Trucks* (May 21, 2010), available at <http://www.whitehouse.gov/the-press-office/president-obama-directs-administration-create-first-ever-national-efficiency-and-em> (last accessed April 25, 2014).

²⁰ See *Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles*, 76 FR 57106 (September 15, 2011).

²¹ See *White House Announces First Ever Oil Savings Standards for Heavy Duty Trucks, Buses* (August 9, 2011), available at <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2011/White+House+Announces+First+Ever+Oil+Savings+Standards+for+Heavy+Duty+Trucks,+Buses> (last accessed April 28, 2014). For more information on the rulemaking, see also EPA Regulatory Announcement, *EPA and NHTSA Adopt First-Ever Program to Reduce Greenhouse Gas Emissions and Improve Fuel Efficiency of Medium- and Heavy-Duty Vehicles* (August 2011), available at <http://www.epa.gov/otaq/climate/documents/420f11031.pdf> (last accessed April 28, 2014).

²² See *FACT SHEET—Opportunity For All: Improving the Fuel Efficiency of American Trucks – Bolstering Energy Security, Cutting Carbon Pollution, Saving Money and Supporting Manufacturing Innovation* (February 18, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/02/18/fact-sheet-opportunity-all-improving-fuel-efficiency-american-trucks-bol> (last accessed April 28, 2014); *Improving the Fuel Efficiency of American Trucks – Bolstering Energy Security, Cutting Carbon Pollution, Saving Money and Supporting Manufacturing Innovation* (February 2014), available at <http://www.whitehouse.gov/sites/default/files/docs/finaltrucksreport.pdf> (last accessed April 28, 2014).

vehicles: (1) combination tractors;²³ (2) heavy-duty pickup trucks and vans;²⁴ and (3) vocational vehicles,²⁵ as well as gasoline and diesel heavy-duty engines.²⁶ In addition, the agencies added new standards for combination trailers. EPA’s hydrofluorocarbon emissions standards that currently apply to air conditioning systems in tractors, pickup trucks, and vans, were also applied to vocational vehicles.

Current Action

On August 5, 2021, President Biden issued Executive Order (E.O.) 14037, Strengthening American Leadership in Clean Cars and Trucks, which directed NHTSA and EPA to, as appropriate and consistent with applicable law, take actions under EPCA/EISA and the Clean Air Act to set standards for light-, medium-, and heavy-duty vehicles.²⁷ Specifically, the E.O. directed NHTSA to consider beginning work on rulemakings to “establish new fuel efficiency standards for medium- and heavy-duty engines and vehicles to begin as soon as model year 2030.”

In accordance with E.O. 14037, but pursuant to the agency’s own exercise of authority consistent with EPCA/EISA, NHTSA intends to propose fuel efficiency standards for MYs 2030 and Beyond HD vehicles in an upcoming NPRM by July 2024. However, in accordance with EISA’s lead time requirements, NHTSA is statutorily required to issue a final rule for MY 2030 the Phase 3 standards no later than January 2025.²⁸

²³ Combination tractors, which may be equipped with sleeper cabs, including Class 7 and 8 truck tractors, are used for freight transportation. Tractors sometimes run without a trailer in between loads, but most of the time they run with one or more trailers that can carry up to 50,000 pounds or more of payload. Pursuant to the decision in *Truck Trailer Manufacturers Association, Inc. v. Environmental Protection Agency*, No. 16-1430 (D.C. Cir. 2021), NHTSA is not considering trailer standards in this action.

²⁴ Heavy-duty pickup trucks and vans are defined in 49 CFR 523.7.

²⁵ Vocational vehicles, which may span Classes 2b through 8, include smaller and larger van trucks; delivery, utility, tank, flat-bed, and refuse trucks; transit, shuttle, and school buses; fire trucks and other emergency vehicles; motor homes; and tow trucks, among others.

²⁶ Phase 1 required that engines used in heavy-duty vehicles be separately certified by their manufacturer to meet GHG emissions and fuel efficiency standards using the same test procedures used to certify engines for criteria pollutants, unless the vehicle is allowed to be chassis-certified (typically, Class 2b and 3 heavy-duty pick-up trucks and vans) whereby the separate engine certification is not required. Phase 1 engine standards vary depending on engine size linked to intended vehicle service class and use. In particular, the agencies created separate standards for spark-ignition and compression-ignition engines.

²⁷ 86 FR 43583 (August 10, 2021).

²⁸ 49 U.S.C. 32902(k)(3)(A) requires the commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard to provide not less than 4 full model years of regulatory lead-time.

Like past FE rules described above, NHTSA will use full vehicle computer models for Medium- and Heavy-Duty Vehicle Compliance and other analysis tools to determine the impacts of different levels of HD vehicles FE stringency. Pursuant to NEPA, NHTSA will prepare an EIS to analyze the potential environmental impacts of its proposed action. This Notice of Intent initiates the scoping process for the EIS under NEPA and its implementing regulations,²⁹ and under NHTSA's NEPA regulations.³⁰ Specifically, this Notice of Intent requests public input on the scope of NHTSA's NEPA analysis including the alternatives considered and the significant environmental issues relating to more stringent FE standards for HD vehicles.

II. Considerations for the Range of Alternatives

In an upcoming NPRM, NHTSA intends to propose new FE standards, as described above. This notice briefly describes a variety of possible alternatives that are currently under consideration by the agency and seeks input from the public about those alternatives and about whether other alternatives should be considered as NHTSA proceeds with the rulemaking and the EIS.

a. Framing the Range of Alternatives

The purpose of and need for an agency's action inform the range of reasonable alternatives to be considered in its NEPA analysis.³¹ In developing alternatives for analysis in the EIS, NHTSA must consider EISA's requirements for setting FE standards under the MD/HD fuel efficiency improvement program noted above.

With regards to the FE standards, EISA requires that: (1) The program must be "designed to achieve the maximum feasible improvement"; (2) the various required aspects of the program must be appropriate, cost-effective, and technologically feasible for MD/HD vehicles; and (3) the standards adopted under the program must provide not less than four model years of lead time

²⁹ 42 U.S.C. 4321–4347; 40 CFR parts 1500-1508.

³⁰ See 40 CFR 1501.7, 1508.22; 49 CFR 520.21(g).

³¹ 40 CFR 1502.13.

and three model years of regulatory stability.³² In considering these various requirements, NHTSA will also account for relevant environmental and safety considerations.

For setting FE standards, NHTSA will analyze action alternatives calculated at the lower point and at the upper point of a range of FE standards that would satisfy EISA's requirements of increasing the FE of HD vehicles. The lower bound would reflect the least stringent of the range of alternatives to achieve the maximum feasible improvement in fuel efficiency. On the other hand, the upper bound, represents the most stringent fuel efficiency improvement.

Similarly, the range of alternatives will reflect differences in the degree of technology adoption across the fleet; in costs to manufacturers and consumers; and in conservation of energy and related impacts to the environment. For example, the most stringent FE standard NHTSA will evaluate would require greater adoption of fuel-saving technology across the fleet, including more advanced technology, than the least stringent standard NHTSA will evaluate. As a result, the most stringent alternative for the FE standard would impose greater costs and achieve greater energy conservation.

The range of alternatives would provide a broad range of information for NHTSA to use in evaluating and weighing the statutory factors in the EISA. It would also assist the decision-maker in considering the differences and uncertainties in the way in which key economic inputs (e.g., the price of fuel and the social cost of greenhouse gas emissions) and technological inputs are estimated or valued.

b. Considerations on Levels of Standards for Regulatory Classes

Within the range of alternatives, NHTSA may consider setting more stringent standards for the earlier years of the rule than for the later years, or, alternatively, setting less stringent standards for the earlier years of the rule than for the later years, depending on our assessment of what would be "maximum feasible" for those time periods for each fleet. The changes in stringency considered in the lower and upper bounds may be defined as "average" changes in

³² 49 U.S.C. 32902(k)(2) and (3).

stringency; the preferred alternative and actual standards may either be constant throughout the period or may vary, consistent with EISA's regulatory stability requirements. However, analysis of the average yearly change over that period would provide sufficient environmental analysis to bracket the range of environmental impacts of reasonable alternatives and allow for a reasoned choice among the alternatives presented. NHTSA also may select "maximum feasible" fuel efficiency standards for some or all model years that decrease or remain the same as compared to prior model year(s), consistent with EISA's regulatory stability requirements.

NHTSA (in consultation with EPA) is still evaluating the costs and effectiveness of the various technologies available, the potential structure of the program, the stringencies of potential alternatives covering regulatory categories of the HD sector), and the range of reasonable alternatives for consideration in this rulemaking and EIS. NHTSA will evaluate several factors in developing alternatives for consideration and analysis, including costs for technology development and manufacture, costs that will be paid by heavy-duty vehicle owners and operators, FE (and corresponding GHG reduction) benefits, industry structure, and more.

For different regulatory vehicle classes within HD vehicles, NHTSA may consider setting standards at different rates, or that change over different rates during the timeframe of the rule. NHTSA may also consider setting different levels of standards for vehicles that are powered by different fuels (e.g., in past MD/HD FE rules, NHTSA set separate standards for gasoline- and diesel-powered vehicles).

c. Considerations on Industry Lead Time

As noted above, there is no limitation on the number of model years of standards that NHTSA can set for HD vehicles.

d. Considerations on Standard Attributes and Form

In the previous MD/HD rulemaking, NHTSA used different metrics for setting HD vehicle standards. For HD pickups trucks and vans, work factor³³ was the metric for setting vehicle standards. NHTSA set standards separately for vocational and truck tractors to account for differences in vehicle applications and fuel type. As discussed further below, NHTSA seeks comment on the attribute used to set FE standards, possible other attributes that could be used to set FE standards, the shape of the standards curves, and other programmatic aspects that could help fulfill the goals outlined herein.

e. Other Programmatic Considerations

As with any FE rulemaking, NHTSA will also consider programmatic aspects other than stringency (e.g., flexibilities) that may affect model years including those for which NHTSA would set FE standards.

III. Range of Alternatives

NHTSA is considering the following alternatives for analysis in the Draft EIS:

a. No Action Alternative

NEPA requires agencies to consider a “no action” alternative in their NEPA analyses and to compare the effects of not taking action with the effects of the reasonable action alternatives in order to demonstrate the different environmental effects of the action alternatives.³⁴ In this EIS, NHTSA will consider a “no action” alternative, which assumes, for purposes of NEPA analysis, that NHTSA would not issue a new rule regarding HD FE standards. Under these circumstances, the existing FE standards established for the end of Phase 2 would persist until NHTSA takes additional action.³⁵ The no-action alternative would also take into account CARB’s Advanced

³³ Work factor is an attribute that combines a vehicle’s payload, towing capabilities, and the presence of 4-wheel drive.

³⁴ See 40 CFR 1502.2(e), 1502.14. CEQ has explained that “[T]he regulations require the analysis of the no action alternative *even if the agency is under a court order or legislative command to act*. This analysis provides a benchmark, enabling decision makers to compare the magnitude of environmental effects of the action alternatives. ... Inclusion of such an analysis in the EIS is necessary to inform Congress, the public, and the President as intended by NEPA. [See 40 CFR 1500.1(a).]” *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 FR 18026 (1981) (emphasis added).

³⁵ The “no action” alternative will also assume that EPA would not issue a rule regarding HD GHG emissions standards. The existing GHG standards established for the end of Phase 1 would also persist indefinitely.

Clean Trucks (ACT) program, set to begin in model year 2024. The ACT program stipulates that manufacturers must electrify specified percentages of their heavy-duty fleets (including Class 2b and Class 3 heavy-duty pickup trucks and vans) in order to continue selling heavy-duty vehicles in California and other states that have formally adopted the program.

NHTSA will refer to this alternative that includes the conditions described for FE standards as the “No Action Alternative” or as the “baseline.”

b. Action Alternatives

The EIS will also analyze action alternatives calculated at the lower point and at the upper point of the range the agency believes encompasses reasonable alternatives meeting the purpose and need of the proposed action. These lower and upper “bounds” or “brackets” will account for various potential structures for the FE standards for the HD vehicles and various levels of stringency for the regulatory categories. These alternatives would bracket the range of actions the agency may select. In sum, in its final rule, NHTSA would be able to select from any stringency level within that range. NHTSA seeks public comments on the stringency levels at which to define the lower and upper bounds of this range of reasonable alternatives.

c. Preferred Alternative

In the EIS, NHTSA intends to identify a Preferred Alternative, which may be within the level of stringency that falls within the range being considered or may be the lower or upper bound levels of stringency. The Preferred Alternative would reflect what the agency believes is the “maximum feasible improvement” required under EISA. The Preferred Alternative may include improvements that are constant throughout the regulatory period or that vary in accordance with EISA’s regulatory stability requirements, and from segment to segment, in accordance with predetermined stringency increases that would be established by this rule. However, the overall stringency and impacts will fall at or between the lower and upper brackets discussed above. NHTSA has not yet identified its Preferred Alternative.

IV. Consideration of Expected Impacts

The scoping process initiated by this notice seeks to determine “the range of actions, alternatives, and impacts to be considered” in the EIS and to identify the most important issues for analysis involving the potential environmental impacts of NHTSA’s FE standards.³⁶ NHTSA’s NEPA analysis will consider direct, indirect, and cumulative effects of the proposed action and those of reasonable alternatives.

While the main focus of NHTSA’s prior CAFE and FE EISs (*i.e.*, the HD Phase 1³⁷ and Phase 2³⁸ EISs) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of life-cycle impacts and cumulative impacts, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of impacts on resources such as water resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice.

Similar to past EIS practice, NHTSA plans to analyze environmental impacts related to fuel and energy use, emissions and their effects on climate change and the environment,³⁹ air quality,⁴⁰ natural resources, and the human environment. NHTSA is considering examining life-cycle impacts consistent with its past EISs and looking at tools that may be available for quantitative analysis. NHTSA will consider the direct and indirect impacts of the proposed FE standards, as well as the cumulative effects⁴¹ of the proposed FE standards together with any past, present, and reasonably foreseeable future actions. Overall, NHTSA plans to analyze

³⁶ See 40 CFR 1500.5(f), 1501.9.

³⁷ *Final Environmental Impact Statement, Medium- and Heavy-Duty Fuel Efficiency Improvement Program, Model Years 2014-2018*, Docket No. NHTSA-2010-0079-0151 (June 2011).

³⁸ *Final Environmental Impact Statement, Medium- and Heavy-Duty Fuel Efficiency Improvement Program, Model Years 2018-2027*, Docket No. NHTSA-2014-0074 (August 2016).

³⁹ NHTSA is planning to include in this EIS a quantitative analysis to estimate the impact of the alternatives on ocean acidification based on changes in atmospheric CO₂ concentrations.

⁴⁰ Consistent with past practice, in addition to the air quality analysis presented in the Draft and Final EIS, NHTSA will conduct a national-scale photochemical air quality modeling and health risks assessment that will be included in the Final EIS, but not the Draft EIS, due to the substantial time required to complete the analysis. In addition, because of the lead time required for this analysis, it will be based on the alternatives presented in the Draft EIS, but not the alternatives as they may be revised for the Final EIS. Still, NHTSA believes the analysis will provide meaningful information for the decisionmaker and the public.

⁴¹ In accordance with CEQ regulations, cumulative impacts are “the impacts on the environment that result from the incremental impacts of the action when added to the impacts of other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 CFR 1508.1.

impacts in much the same manner as it did in its prior EISs, while incorporating by reference any of the relevant discussions from those documents.

Estimates of fuel used as a result of different levels of standards are used as inputs for the EIS's climate modeling. As with any model, uncertainties exist in modeling potential future climate change scenarios. Because all analysis of possible future outcomes necessarily involves uncertainty, including what NHTSA will consider for this rulemaking and EIS, NHTSA anticipates uncertainty in its estimates of the potential environmental impacts related to climate change. To account for this uncertainty, NHTSA plans to evaluate a range of potential global temperature changes that may result from changes in fuel and energy consumption and GHG emissions attributable to new FE standards. It is difficult to quantify how the specific impacts due to the potential temperature changes attributable to new FE standards may affect many aspects of the environment. NHTSA will endeavor to gather the key relevant and credible information using a transparent process that employs the best available peer-reviewed science. NHTSA invites public comments on the scope of its analysis on climate change impacts, including citations to peer-reviewed scientific articles to frame and analyze the relevant issues.

Because of the models NHTSA will use for this rulemaking and EIS, the agency anticipates analyzing impacts on fuel/energy use and pollutant emissions through 2050 and impacts on GHG emissions, global temperature, and climate change through 2100. Because HD vehicles generally accumulate the vast majority of their VMT in early years, and because more distant projections contain far more uncertainty, NHTSA believes the analysis year of 2050 for fuel/energy use and air quality will provide sufficient information for the decision-maker to assess the totality of the impacts related to the regulated vehicles. Because climate impacts are more long-term, NHTSA anticipates that the EIS will assess these impacts to 2100.

In order to streamline its documentation and eliminate redundancy, NHTSA plans not to include analyses of either monetized health benefits in its air quality analysis or monetized climate change benefits in its climate change analysis in the EIS, as both of those analyses will

be included in its RIA (consistent with past practice), which is subject to public notice and comment concurrently with the EIS. NHTSA will incorporate the analyses in the RIA by reference in the EIS consistent with the requirements of the CEQ implementing regulations.⁴² The EIS will continue to present analyses on air quality emissions (including non-monetized health impacts), GHG emissions, and climate change impacts (including impacts on CO₂ concentrations, temperature, sea-level rise, and precipitation).

NHTSA expects to rely on previously published EISs, incorporating material by reference “when the effect will be to cut down on bulk without impeding agency and public review of the action.”⁴³ Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency’s prior NEPA documents, where appropriate.

V. The Scoping Process

NHTSA’s NEPA analysis will consider the direct, indirect, and cumulative environmental effects of proposed standards and those of reasonable alternatives. The scoping process initiated by this notice seeks public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important matters for in-depth analysis in the EIS. All comments relevant to the scoping process are welcome.

NHTSA invites the public to participate in the scoping process⁴⁴ by submitting written comments concerning the appropriate scope of the NEPA analysis for the proposed FE standards to the docket number identified in the heading of this notice, using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping

⁴² 40 CFR 1501.12

⁴³ *Id.*

⁴⁴ Consistent with NEPA and implementing regulations, NHTSA is sending this notice directly to: (1) Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts involved or authorized to develop and enforce environmental standards; (2) the Governors of every State, to share with the appropriate agencies and offices within their administrations and with the local jurisdictions within their States; (3) organizations representing state and local governments and Indian tribes; and (4) other stakeholders that NHTSA reasonably expects to be interested in the NEPA analysis for the MY 2028–2032 CAFE standards. *See* 42 U.S.C. 4332(2)(C); 49 CFR 520.21(g); 40 CFR 1501.8, 1506.6.

meeting because, based on prior experience, written comments will be effective in identifying and narrowing the considerations for analysis.

a. Comments on the Range of Alternatives

NHTSA invites comments to ensure that the agency considers a full range of reasonable alternatives in setting new HD vehicle FE improvement standards. Comments may go beyond the approaches and information that NHTSA described above for developing the alternatives. NHTSA understands that there are a variety of potential alternatives that could be considered that fit within the purpose and need for the proposed rulemaking, as set forth in EISA. NHTSA is therefore interested in comments on how best to structure or describe proposed alternatives for purposes of evaluation under NEPA. Subject to the statutory restraints under EISA, a variety of potential alternatives could be considered within the purpose and need for the proposed rulemaking, each falling along a theoretically infinite continuum of potential standards. As described above, NHTSA plans to address this issue by identifying alternatives at the upper and lower bounds of a range within which we believe the statutory requirement for “maximum feasible improvement”⁴⁵ would be satisfied, as well as identifying and analyzing the impacts of a preferred alternative. In this way, NHTSA expects to bracket the potential environmental impacts of the standards it may select.⁴⁶

The agency may modify the proposed alternatives that will be analyzed in depth based upon the comments received during the scoping process and upon further agency analysis. When suggesting an approach to developing alternatives that the agency should analyze, please explain the recommended way to balance EISA’s factors ((1) The program must be “designed to achieve the maximum feasible improvement”; (2) the various required aspects of the program must be appropriate, cost-effective, and technologically feasible for MD/HD vehicles; and (3) the

⁴⁵ See 49 U.S.C. 32902(k)(2).

⁴⁶ Should NHTSA ultimately choose to set standards at levels other than the Preferred Alternative, we believe that this bracketing will properly inform the decision-maker, so long as the standards are set within its bounds. This methodology permits the analysis of a range of reasonable alternatives the agency may pick, while providing the agency flexibility to select the alternative based on the most up-to-date information and analyses available at that time.

standards adopted under the program must provide not less than four model years of lead time and three model years of regulatory stability).

b. Comments on Environmental Effects

NHTSA invites comments to ensure that the agency identifies the environmental impacts and focuses its analyses on all the potentially significant impacts related to each alternative. Comments may go beyond the approaches and information that NHTSA described above for identifying the potentially significant environmental effects. The agency may modify the environmental effects that will be analyzed in depth based upon the comments received during the scoping process and upon further agency analysis. When suggesting additional resource areas to analyze, please explain how the recommendation will add value to the public and decisionmaker in looking at the environmental impacts of the range of identified alternatives.

Two important purposes of scoping are identifying the significant considerations that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the matters that are not significant and therefore require only a brief discussion in the EIS.⁴⁷ In light of these purposes, written comments should include an internet citation (with a date last visited) to each study or report cited in the comments, if one is available. If a document cited is not available to the public online, the commenter should either provide sufficient bibliographical information to allow NHTSA to locate and obtain a copy of the study, or attach a copy to the comments.⁴⁸ Commenters should indicate how each document cited or attached to their comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific the comments are, and the more support they provide in identifying peer-reviewed scientific studies and reports, the more useful the comments will be to the NEPA process. For example, if a comment identifies an additional area of impact or environmental

⁴⁷ 40 CFR 1500.4(g), 1502.2(b).

⁴⁸ Please be mindful of copyright restrictions when attaching documents to any comments, as they will be made publicly available in the agency's docket.

concern that NHTSA should analyze, or an analytical tool or model that NHTSA should use to evaluate these environmental impacts, the comment should clearly describe it and provide a reference to a specific peer-reviewed scientific study, report, tool, or model, if possible.

Specific, well-supported comments will help the agency prepare an EIS that is focused and relevant and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public by "avoid[ing] useless bulk in statements and . . . concentrate[ing] effort and attention on important issues."⁴⁹ By contrast, mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not assist the scoping process for the proposed standards.

Please be sure to reference the docket number identified in the heading of this notice in any submitted comments. All comments and materials received, including the names and addresses of the commenters who submit them, will become part of the administrative record and will be posted on the web at <http://www.regulations.gov>.

c. Schedule for Decision-Making

Separate *Federal Register* notices published by EPA will announce the availability of the Draft EIS, which will be available for public comment, and the Final EIS. NHTSA will issue the Draft EIS concurrently with its NPRM. In addition, NHTSA will simultaneously issue a Final EIS and Record of Decision (Final Rule), pursuant to 49 U.S.C. 304a, unless it is determined that statutory criteria or practicability considerations preclude concurrent issuance. NHTSA also plans to continue to post information about the NEPA process and this CAFE rulemaking on its website (<http://www.nhtsa.gov>).

Issued in Washington, D.C. under authority delegated in 49 CFR parts 1.95 and 501.8.

⁴⁹ 40 CFR 1502.15.

Raymond R. Posten,

Associate Administrator for Rulemaking.

Billing Code: 4910-59-P

[FR Doc. 2022-20211 Filed: 9/16/2022 8:45 am; Publication Date: 9/19/2022]